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Union Carbide Corporation
39 Old Ridgebury Road
Danbury, CT 06817

In re Application of

MALLON, Charles B., et al.

Application No.: 09/775,760

Filing Date: None

Attorney Docket No.: 17795-2-PC

For: PRODUCTION OF

POLYSACCHARIDE ETHERS

DECISION

This decision is in response to applicants' response to the Notice to File Missing Parts of Non-Provisional Application filed 21 May 2001.

BACKGROUND

On 02 February 2001, applicants filed a transmittal form (Form PTO/SB/21) which was accompanied by a fee transmittal (Form PTO/SB/17), the utility filing fee, and an information disclosure statement.

On 30 March 2001, the Office mailed a Notice to File Missing Parts of Nonprovisional Application indicating that an oath or declaration, the surcharge fee, claims commencing on a separate sheet, a substitute specification in compliance with 37 CFR 1.52 and an abstract were required.

On 21 May 2001, applicants filed the present petition requesting that the 02 February 2001 submission be treated as the US national stage submission for PCT/US99/17597.

DISCUSSION

Under 37 CFR 1.495(g), it states, in part:

the documents and fees submitted under paragraphs (b) and (c) of this section must ... be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. Otherwise, the submission will be considered as being made under 35 U.S.C. 111(a).

As the 02 February 2001 submission was not clearly identified as a submission for entry into the national stage in the United States under 35 U.S.C. §371, it was properly considered a filing made under 35 U.S.C. §111(a). However, the Notice to File Missing Parts according a 02 February 2001 filing date issued in error, as the 02 February 2001 submission did not include a specification with claims.¹

¹Japanese unexamined patent application publication Heisei 1-149801 cited in the Information Disclosure Statement was inadvertently used by the USPTO as the specification and claims for the present application.

Applicants may wish to consider filing a petition under 37 CFR 1.137(b) to revive the international application as to the United States, if a national stage application is desired, if the requirements under 37 CFR 1.137(b) can be satisfied.

CONCLUSION

For the above reasons, the petition is **DISMISSED**. The 02 February 2001 submission was properly treated as a filing under 35 U.S.C. §111(a).

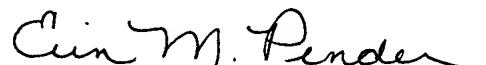
The Notice to Filing Missing Parts mailed 30 March 2001 is **VACATED**.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the Office of Initial Patent Examination to continue processing as a U.S. application filed under 35 U.S.C. §111(a), including removal of the above mentioned Japanese reference as the specification and claims of the present application and issuance of a Notice of Incomplete Application (PTO-1123) requiring a specification including claims in compliance with 35 U.S.C. §112.



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